

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA :  
 : NO. 1:06-CR-00103-4  
 :  
 v. :  
 : **OPINION AND ORDER**  
 :  
 STEPHEN D. WHEELER. :  
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This matter is before the Court on Defendant's Motion for Jail Time Credit and Request for Hearing (doc. 648), and the United States' Response in Opposition (doc. 650).

Defendant indicates that at his Sentencing in this matter, the Court advised him that he would get jail time credit for six months he had served (doc. 648). However, the Court has reviewed the transcript of the Sentencing and notes that it questioned whether the incarceration and arrest were on the federal charge. Counsel indicated Defendant was arrested "on the federal charge and turned over" after which the Court interrupted and stated "He'll get credit for that." It is clear from the transcript the Court understood Defendant's jail time was for the federal charge, but in fact, it was on a different state charge. The Court's understanding was in error. No Defendant can be credited on his federal sentence for time served under a different state sentence. 18 U.S.C. § 3585(b)(1).

The government indicates Defendant was in custody on a state sentence throughout his plea and sentence, such that his federal sentence did not commence until he was received by the U.S. Marshal from the state (doc. 650). That date was September 21, 2012 (Id.). Defendant's sentence of 78 months therefore commenced as of such date (Id.). The Court further notes that the computation and application of jail-time credit is the responsibility of the Bureau of Prisons and not the courts (Id. citing United States v. Wilson, 503 U.S. 329 (1992)).

Having reviewed this matter, the Court finds no basis for Defendant's motion, as the Court's previous indication that he would get credit was based on the erroneous understanding of the record. Moreover, Defendant's request is outside the Court's jurisdiction. The Court is sorry for advising Defendant incorrectly based on a misunderstanding of the facts. The Court regrets the obvious expectation that Defendant had that he would be awarded such jail time credit.

Accordingly, the Court DENIES Defendant's motion (doc. 648), but out of an abundance of caution, REQUESTS the Bureau of Prisons recalculate Defendant's sentence to ensure the application of credit, if any, to Defendant's total term of 78 months.

SO ORDERED.

Dated: July 18, 2013

/s/ S. Arthur Spiegel

S. Arthur Spiegel  
United States Senior District Judge